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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,775	05/23/2005	Saburo Miyabe	DN2003055	7580
27280 7590 01/09/2007 THE GOODYEAR TIRE & RUBBER COMPANY INTELLECTUAL PROPERTY DEPARTMENT 823 1144 EAST MARKET STREET AKRON, OH 44316-0001			EXAMINER MAKI, STEVEN D	
			ART UNIT 1733	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/09/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/509,775

**Applicant(s)**

MIYABE ET AL.

**Examiner**

Steven D. Maki

**Art Unit**

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

1) Claims 4-8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 4-8 not been further treated on the merits.

2) Applicant is advised that should claim 1 be found allowable, claim 2 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claims 1 and 2 have the same scope. The description relating to the intended use of the tire in claim 2 fails to create a difference in scope between claims 1 and 2.

3) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4) Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 line 8 describes "the broad width groove". Since line 3 of claim 1 describes "broad width grooves" (plural grooves), it is unclear which groove(s) is being described at line 8. In other words, it is unclear if claim 1 requires an inner rib on the tire equator side and an outer rib on a tread grounding end side to be formed on both sides of one of the broad width grooves or both of the broad width grooves.

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5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7) **Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 110 (JP 7-172110).**

Japan 110, directed to reducing noise, discloses a pneumatic tire with a tread comprising four wide circumferential grooves 1, three narrow circumferential grooves 1, a pair of shoulder block rows and six circumferential ribs 2-7. See figure 2. The four wide circumferential grooves are illustrated as having the same width. The three narrow circumferential grooves are illustrated as having the same width. The width of the narrow grooves is illustrated as being substantially smaller than the width of the wide grooves. Japan 110 specifically teaches that the ribs 2, 3, 6 and 7 in the figure 2 embodiment are not provided with lug grooves. See paragraph 16 of machine translation. Japan 110 teaches that each of the ribs has a width of 4-10% of the tread ground contact width W. Japan 110 teaches that the sum of the groove widths G1-G7 is 23-30% of the tread ground contacting width W (falling within the claimed range of 15-

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35%). In example 1, the rib width is 7% of the tread width and the sum of groove widths is 27% of the tread width.

The claimed tire is anticipated by Japan 110. The broad width main groove reads on either the wide groove having groove width G3 or the wide groove having groove width G5. Each wide groove is between a pair of ribs which are not interrupted by "any sipings, slots or other notches". The centerline of the groove with groove width G3 is at a distance of more than about 7% tread width since (1) groove width G3 > groove width G4 and (2) rib width L3 is 7% in example 1. The value of 7% falls within the claimed range of 5-30%. The sum of groove widths divided by seven is 3.9% tread width. Since the groove width (e.g. width G3) of the wide groove is clearly larger than the width (e.g. G4) of the narrow width groove, the groove width of the wide groove must be greater than 3.9% and as such there is a reasonable basis for concluding that the width G3 of the wide groove falls within the claimed range of 4-20% tread grounding width.

As to claim 2, note groove with groove width G3 or groove with groove width G5.

As to claim 3, Japan 110 teaches a rib width of 4-10%, e.g. 7% and thereby discloses with sufficient specificity a width within the claimed range of 2-6%.

**8) Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 110 in view of Europe 365 (EP 654365).**

Japan 110, which is discussed above, is considered to anticipate claims 1-3. In any event: As to claims 1-3, it would have been obvious to one of ordinary skill in the art to provide Japan 110's tire such that the tread has broad width grooves having a

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groove width of 4-20%, a groove centerline of a broad width groove apart from the tire equator by a distance of 5-30%, uninterrupted ribs formed on both sides of the broad width groove, and a total of groove widths of 15-35% of the tread grounding width since (1) Japan 110 teaches a tread pattern comprising a pair of shoulder block rows, four wide circumferential grooves, three narrow circumferential grooves and six uninterrupted ribs (figure 2), (2) Japan 110 teaches (a) providing the ribs with a width of 4-10% of the tread grounding width and (b) using a total width of the circumferential grooves of 23-30% of the tread grounding width and (3) Europe 365, also directed to a low noise tire having wide and narrow circumferential grooves, suggests providing the wide circumferential grooves with a width of greater than 3% of the tread width (e.g. 4-5% of the tread width) and providing the narrow circumferential grooves with a width less than 1% of the tread width.

#### Remarks

9) All of the references except Japanese Utility Model Application 628/1993 listed on the PCT search report dated July 2003 have been considered and are of interest. Applicant is requested to provide a copy of Japanese Utility Model Application 628/1993 since this reference is not readily available to the examiner.

The remaining references are of interest.

10) No claim is allowed.


11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven D. Maki  
January 6, 2007

  
**STEVEN D. MAKI** 1-6-07  
**PRIMARY EXAMINER**